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Filing date: **03/04/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92058386
Party	Defendant El Vocero Hispano
Correspondence Address	EL VOCERO HISPANO 2818 VINELAND AVE SE GRAND RAPIDS, MI 49508 UNITED STATES editor@elvoceromi.com,andresabreu1@mac.com
Submission	Answer
Filer's Name	Raquel A. Salas
Filer's e-mail	rsalas@avantilaw.com, elueder@avantilaw.com, agrauman@avantilaw.com
Signature	/Raquel A. Salas/
Date	03/04/2014
Attachments	El Vocero Response in Opposition.pdf(308118 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

PUBLI-INVERSIONES PUERTO RICO, INC,

Petitioner,

v.

EL VOCERO HISPANO, LLC,

Respondent.

Cancellation No. _____

Registration No. 3,546,245

Mark: EL VOCERO HISPANO
(Stylized)

Honorable Commissioner for Trademarks
PO Box 1451
Alexandria, VA 22313-1451

RESPONSE IN OPPOSITION TO PETITION FOR CANCELLATION

EL VOCERO HISPANO, Inc., a corporation organized under the laws of the State of Michigan ("Respondent"), with a business address of 2818 Vineland Ave. SE, Grand Rapids, MI 49508, provides in Answer to Petitioner Publi-Inversiones Puerto Rico, Inc.'s Petition for Cancellation the following:

I. THE PARTIES:

1. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

2. Deny. Respondent's legal name is El Vocero Hispano, Inc. Respondent is a corporation organized under the laws of the State of Michigan. However, Respondent is aware that the Trademark is mistakenly registered to El Vocero Hispano, LLC.

3. Admit.

II. THE USE OF PETITIONER'S MARK(S):

4. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

5. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

6. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

7. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation. However, Respondent admits that a document marked as Exhibit A is attached to the Petition for Cancellation. The document speaks for itself and Respondent neither admits nor denies its validity as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

8. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

9. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation. However, Respondent admits that a document marked as Exhibit B is attached to the Petition for Cancellation. The document speaks for itself and Respondent neither admits nor denies its validity as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

10. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation. However, Respondent admits that a document marked as Exhibit C is attached to the Petition for Cancellation. The document speaks for itself and Respondent neither

admits nor denies its validity as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

11. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

12. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

13. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

14. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

15. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation. However, Respondent admits that a document marked as Exhibit D is attached to the Petition for Cancellation. The document speaks for itself and Respondent neither admits nor denies its validity as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

16. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

17. This allegation states a conclusion of law for which an answer is not required. However, if an answer is required, this allegation is denied. Furthermore, Respondent asserts that Petitioner has abandoned all claims to the wording "EL VOCERO" by failing to renew Petitioner's registered trademark. Alternatively, Petitioner's common law rights only extend to use in Puerto Rico and states where Petitioner actively promotes "EL VOCERO."

18. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

19. This allegation states a conclusion of law for which an answer is not required. However, if an answer is required, this allegation is denied.

20. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

21. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

III. RESPONDENT'S USE OF EL VOCERO HISPANO:

22. Admit.

23. Admit.

24. Admit.

25. Admit.

26. Admit.

27. Admit.

28. Admit.

29. Deny. The wording "El Vocero" alone is not inherently distinctive.

30. Admit.

31. Admit.

32. Admit.

33. Deny. The stylization is a significant aspect of Respondent's mark and is distinctive from the stylization in Petitioner's mark.

34. Deny. The stylization is a significant aspect of Respondent's mark and is distinctive from the stylization in Petitioner's mark.

IV. LEGAL ARGUMENTS IN SUPPORT OF CANCELLATION:

35. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

36. Deny.

37. Deny.

38. Deny. The Respondent's mark is "El Vocero Hispano" and the Petitioner's mark is "El Vocero de Puerto Rico."

39. Deny. The stylization is a significant aspect of Respondent's mark and is distinctive from the stylization in Petitioner's mark.

40. Deny.

41. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

42. This allegation states a conclusion of law for which an answer is not required. However, if an answer is required, this allegation is denied.

43. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

44. Respondent admits that Respondent is providing an online publication in the nature of a newspaper and many print publications are also published online. The rest of the allegations contained in this paragraph are neither admitted nor denied as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

45. Deny.

46. Deny.

47. This allegation states a conclusion of law for which an answer is not required. However, if an answer is required, this allegation is denied.

48. This allegation states a conclusion of law for which an answer is not required. However, if an answer is required, this allegation is denied.

49. Deny.

50. Neither admit nor deny as Respondent lacks sufficient knowledge and information as to the truth of this allegation.

WHEREFORE Petitioner respectfully requests that this Board deny Petitioner's Petition for Cancellation.

AFFIRMATIVE DEFENSES

Respondent incorporates by reference all of the allegations in the above Answer and further alleges by way of affirmative defenses:

1. Unclean hands;
2. Estoppel;
3. Laches;
4. Acquiescence;
5. Fraud;
6. Mistake;
7. Prior judgment;
8. Lack of standing;
9. Abandonment;
10. Failure to protest;

11. Respondent reserves the right to file additional affirmative defenses as may become known during the course of this proceeding.

WHEREFORE Petitioner respectfully requests that this Board deny Petitioner's Petition for Cancellation.

Dated: 3/4/14

RESPECTFULLY SUBMITTED,

/s/ RAS /ayl
AVANTI LAW GROUP, PLLC
By: Raquel A. Salas (P70649)
Elizabeth Lueder (P71951)
Attorneys for Respondent
600 28th St SW
Wyoming, MI 49509
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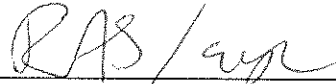
APPEARANCE

Please take note that Avanti Law Group, PLLC, Raquel A. Salas, and Elizabeth Lueder are appearing as attorneys for Respondent.

Respectfully Submitted,

AVANTI LAW GROUP, PLLC

By:



Raquel A. Salas (P70649)
Avanti Law Group, PLLC
Attorney for Respondent
600 28th St. SW
Wyoming, MI 49509

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PROOF OF SERVICE

On March 3, 2014, I served Petitioner with Respondent's Answer to Petitioner's Petition for Cancellation by placing it in an envelope, affixing proper postage, and mailing the envelope to: Travis D. Wheatley O'Neill & Borges LLC, 250 Munoz Rivera Ave., Suite 800, San Juan Puerto Rico, 00918-1813, and also faxing it to: (787) 753-8946 . I declare that the statements above are true to the best of my knowledge and belief.

Respectfully Submitted,

AVANTI LAW GROUP, PLLC

By: 

Elizabeth Lueder (P71951)
Avanti Law Group, PLLC
600 28th St. SW
Wyoming, MI 49509